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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,322	07/28/2003	Albert Andrew Murrer III	034827-3101	6587

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EXAMINER

GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,322

Applicant(s)

MURRER, ALBERT ANDREW

Examiner

Harry A. Grosso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10, 12-19 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 6, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz et al (2003/0136702, July 24, 2003) (Redzisz) in view of Zeddies, of record.
2. Regarding claim 6, Redzisz discloses a container (Figures 1-6, paragraph 0030) with a collapsible soft sided outer shell, a plurality of vertical walls and a bottom integrally formed, an inner layer of watertight material (60, Figures 10 and 11, paragraph 0033, claim 14), a lid secured to the side walls. Redzisz does not teach the use of a rigid inner frame. Zeddies discloses a collapsible rigid inner frame used with a collapsible outer shell to provide support to the outer shell. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a collapsible rigid inner frame as disclosed by Zeddies in the container disclosed by Redzisz to provide support for the soft sided collapsible outer shell.
3. Regarding claims 12 and 13, Redzisz discloses an open top with a lid selectively secured to the vertical walls with a zipper (Figures 2 and 3).
4. Regarding claim 14, Redzisz discloses the bottom is structurally reinforced (76, 78, Figure 11, paragraph 0034).

5. Regarding claim 15, Redzisz discloses an outer fabric layer and a foam insulation layer (paragraph 0030).

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz and Zeddies in view of Tattam, of record. Redzisz and Zeddies disclose the invention except for the use of the container to transport hazardous materials such as human organs. Tattam discloses a collapsible insulated container that may be used for transportation of organs (column 1, lines 9-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the container of Redzisz and Zeddies for the transport hazardous materials such as human organs since human organs require transportation in a temperature controlled container and it is known to use collapsible insulated containers for such a purpose.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz and Zeddies as applied to claim 6 in view of Boyd-Moss et al, of record. Redzisz and Zeddies disclose the container of claim 6 but do not teach that the outer shell satisfies IATA 602 requirements. Boyd-Moss et al discloses that it is known to construct a transport package that meets IATA 602 requirements to allow the package to be used for transport of hazardous goods (column 1, lines 9-15 and column 8, lines 1-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use materials and construction to meet IATA 602 as disclosed by Boyd—Moss et al in the container disclosed in claim 6 to allow the container to be used for transport of hazardous materials.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz and Zeddies as applied to claim 6 in view of Kalal, of record. Redzisz and Zeddies disclose the container of claim 6 except for the vent holes. Kalal discloses a collapsible soft sided container with a liner having vent holes in the outer shell to allow venting of air when the container is collapsed (42, Figure 2, paragraph 0022). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of vent holes in the outer shell as disclosed by Kalal in the container disclosed in claim 6 to allow venting of air when the container is collapsed.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz and Zeddies as applied to claim 15 in view of Reichert (4,865,899). Redzisz and Zeddies disclose the container of claim 15 but do not teach the outer fabric includes polyester. Reichert discloses a container for the transport of hazardous materials constructed from fabric comprising polyester that is selected for a high degree of imperviousness to hazardous materials. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of polyester in the fabric of the container as disclosed by Reichert in the container disclosed in claim 15 to provide a high degree of imperviousness to hazardous materials.

10. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz and Zeddies as applied to claim 6 in view of Travis, of record.

11. Regarding claim 17, Redzisz and Zeddies disclose the container of claim 6 with an inner frame having opposing rigid longitudinal walls and opposing collapsible side

walls but do not teach that the side walls link the ends of the longitudinal walls and allow a reduction in a distance between the longitudinal walls when collapsed. Travis discloses a frame structure capable being used as the inner frame of the invention made of rigid material (Figures 1 and 2, column 2, lines 21-23) with the side walls linking the ends of the longitudinal walls and the walls being collapsible allowing a reduction in a distance between the longitudinal walls (column 2, lines 14 to 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the frame structure as disclosed by Travis in the container disclosed by claim 6 to provide an inner frame that would be less bulky and fold flat with a thinner profile for handling and storage.

12. Regarding claim 18, Travis further discloses the bottom is pivotably engaged to the opposing rigid walls and pivots between open and collapsed positions (column 2, lines 29-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the bottom panel pivotably attached to the rigid wall as disclosed by Travis to provide for the movement of the rigid bottom from an open position to the collapsed position to allow collapse of the frame.

13. Regarding claim 19, Redzisz discloses a fastener that secures the outer shell in the collapsed position (Figures 6-8 and 13-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a fastener as disclosed by Redzisz on the collapsed inner frame as well, to keep the frame secured in the collapsed position for ease of handling.

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14. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redzisz and Zeddies in view of McHutchison (WO 02/18210 A1, March 7, 2002). Redzisz and Zeddies disclose the invention except for the outer shell capable of withstanding an internal pressure, which produces a pressure differential of not less than 95 kPa in the range of -40 degrees C to +55 degrees. McHutchison discloses an insulated container that it is able to transport human organs at pressures other than atmospheric pressure because this allows organs to be conserved for a longer period of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the ability to transport human organs at pressures other than atmospheric pressure in the container of claim 6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the capability of withstanding an internal pressure which produces a pressure differential of not less than 95 kPa in the range of -40 degrees C to +55 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA).

Response to Arguments

15. Applicant's arguments with respect to claims 6-10 and 12-15 have been considered but are moot in view of the new ground(s) of rejection.

16. In response to applicant's argument that Reichart is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed

invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Reichert disclose the use of fabric comprising polyester in containers for the transport of hazardous materials because of its high degree of imperviousness to hazardous materials. This is pertinent to the particular problem with which applicant is concerned and would be applicable.

17. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant argues that the collapsible container of Travis is not a frame for use inside a soft sided outer shell and there is no motivation to use it as such. In response, The frame of Travis would be capable of being used as a frame inside a soft sided shell in as much as there is nothing to prevent its use in such a manner and one of ordinary skill in the art would be aware of this type of frame and could reasonable be expected to see how its structure could work in such as application.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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